IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

S.A.O. No.48 of 2004
Date of decision : 8.01.2007.

Sudrashana Rani & Ors.

.....Appellants.

Versus

Rukman Devi & Ors.

.....Respondents.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.Sarjit Singh, Sr. Advocate
with Ms. Anu Tiwari, Advocate
for the appellants.

Mr. Tribhuwan Singla, Advocate
for respondent No.1.

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VINOD K. SHARMA,J.(ORAL)

By way of present appeal the challenge is led to the order dated 31.5.2004 passed by the learned Addl. District Judge, Sangrur vide which two additional issues have been ordered to be framed and consequently the learned appellate Court below has set aside the judgment and decree passed by the learned trial Court and has remanded the case back to the trial Court for decision on merits.

The issues framed by the learned Addl. District Judge arose from the pleadings of the parties and, therefore, the learned lower appellate Court was justified in framing the said additional issues. However, the impugned part of the order vide which the judgment and decree passed by the learned trial Court has been set aside cannot be sustained. The learned Addl. District Judge was within his right to call for report from the learned

trial Court on the additional issues so framed by permitting the parties to lead additional evidence on the said issues and on the basis of report so received to decide the appeal on merit.

In view of, what has been stated above, this revision is allowed. The impugned order is set aside and it is directed that the learned trial Court would submit its report on the additional issues No. 1-A and 1-B as framed by the learned lower Appellate Court and submit its report to the learned Addl. District Judge, Sangrur within six months from the date the parties appear before the trial Court. The parties through their counsel are directed to appear before the learned Addl. District Judge, Sangrur on 7.2.2007. The learned lower appellate Court after receipt of report on the additional issues would hear the appeal on merit afresh and dispose of the same in accordance with law.

8.1.2007 **(VINOD K. SHARMA)**
'sp' **JUDGE**